

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

324.5303 Cooperative regional or intermunicipal projects; project plan for tier I or tier II project; documentation; notice; public comment; development of priority list; submission of priority list to legislature; effective date of priority list; other actions not limited; “on-site septic system” defined.

Sec. 5303. (1) Municipalities shall consider and utilize, where possible, cooperative regional or intermunicipal projects in satisfying sewerage needs in the development of project plans.

(2) A municipality may submit a project plan for use by the department in developing a priority list.

(3) The project plan for a tier I project shall include documentation that demonstrates that the project is needed to assure maintenance of, or to progress toward, compliance with the federal water pollution control act or part 31, and to meet the minimum requirements of the national environmental policy act of 1969, Public Law 91-190, 42 USC 4321, 4331 to 4335, and 4341 to 4347. The documentation shall demonstrate all of the following:

(a) The need for the project.

(b) That feasible alternatives to the project were evaluated taking into consideration volume reduction opportunities and the demographic, topographic, hydrologic, and institutional characteristics of the area.

(c) That the project is cost effective and implementable from a legal, institutional, financial, and management standpoint.

(d) Other information as required by the department.

(4) The project plan for a tier II project shall include documentation that demonstrates that the project is or was needed to assure maintenance of or progress towards compliance with the federal water pollution control act or part 31, and is consistent with all applicable state environmental laws. The documentation shall include all of the following information:

(a) Information to demonstrate the need for the project.

(b) A showing that the cost of the project is or was justified, taking into account available alternatives. Those costs determined by the department to be in excess of those costs justified are not eligible for assistance under this part.

(5) After notice and an opportunity for public comment, the department shall annually develop separate priority lists for sewage treatment works projects and stormwater treatment projects, for nonpoint source projects, and for projects funded under the strategic water quality initiatives fund created in section 5204. Projects not funded during the time that a priority list developed under this section is in effect shall be automatically prioritized on the next annual list using the same criteria, unless the municipality submits an amendment to its plan that introduces new information to be used as the basis for prioritization. These priority lists shall be based upon project plans submitted by municipalities, and the following criteria:

(a) That a project complies with all applicable standards in part 31 and the federal water pollution control act.

(b) An application for a segment of a project that received funds under the title II construction grant program or title VI state revolving loan funds of the federal water pollution control act or the strategic water quality initiatives fund created in section 5204 shall be first priority on its respective priority list for funding for a period of not more than 3 years after funds were first committed under those programs.

(c) If the project is a sewage treatment works project or a stormwater treatment project, all of the following criteria:

(i) The severity of the water pollution problem to be addressed, maximizing progress towards restoring beneficial uses and meeting water quality standards.

(ii) A determination of whether a project is or was necessary to comply with an order, permit, or other document with an enforceable schedule for addressing a municipality's sewage-related water pollution problems that was issued by the department or entered as part of an action brought by the state against the municipality or any component of the municipality. A municipality may voluntarily agree to an order, permit, or other document with an enforceable schedule as described in this subparagraph.

(iii) The population to be served by the project. However, the criterion provided in this subparagraph shall not be applied to projects funded by the strategic water quality initiatives fund created in section 5204.

(iv) The dilution ratio existing between the discharge volume and the receiving stream.

(v) If the project is within a disadvantaged community, a maximum of 50 points shall be awarded to the project in the manner that points are awarded in rules promulgated under this part.

(d) If the project is a sewage treatment works project, 100 priority points shall be awarded pursuant to R 323.958 of the Michigan administrative code for each of the following that apply to the project:

(i) The project addresses on-site septic systems that are adversely affecting the water quality of a water body or represent a threat to public health, provided that soil and hydrologic conditions are not suitable for the replacement of those on-site septic systems.

(ii) The project includes the construction of facilities for the acceptance or treatment of septage collected from on-site septic systems.

(e) Rankings for nonpoint source projects shall be consistent with the state nonpoint source management plan developed pursuant to section 319 of title III of the federal water pollution control act, chapter 758, 101 Stat. 52, 33 USC 1329.

(f) Any other criteria established by the department by rule.

(6) The priority list shall be submitted annually to the chair of the senate and house of representatives standing committees that primarily consider legislation pertaining to the protection of natural resources and the environment.

(7) For purposes of providing assistance, the priority list shall take effect on the first day of each fiscal year.

(8) This section does not limit other actions undertaken to enforce part 31, the federal water pollution control act, or any other act.

(9) As used in this section, "on-site septic system" means that term as defined in section 5201.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2001, Act 221, Imd. Eff. Jan. 2, 2002;—Am. 2002, Act 398, Eff. Nov. 5, 2002;—Am. 2012, Act 560, Imd. Eff. Jan. 2, 2013.

Compiler's note: Enacting section 2 of Act 398 of 2002 provides:

"Enacting section 2. This amendatory act does not take effect unless the question provided for in the Great Lakes water quality bond authorization act is approved by a majority of the registered electors voting on the question at the November 2002 general election."

Act 396 of 2002, the Great Lakes water quality bond authorization act, which was approved by the Governor on May 29, 2002, and filed with the Secretary of State on May 30, 2002, provided that bonds "shall not be issued under this act unless the question set forth in section 5 [MCL 324.95205] is approved by a majority vote of the registered electors voting on the question." In accordance with Const 1963, art 9, sec 15, the question of borrowing a sum of not to exceed \$1,000,000,000.00 and the issuance of general obligation bonds of the state for the purposes set forth in the act was submitted to, and approved by, the qualified electors of the state as Proposal 02-2 at the November 5, 2002, general election.

Popular name: Act 451

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